

SERIAL NO. 10/705,691

REMARKS

Applicant hereby affirms, with traverse, the provisional election made by Mr. William Davis on 11/14/2005, of Group I, species Aa and Bb, claims 1, 2, 5-12, 22, 23 and 26-29. The non-elected claims have been cancelled herein. By this amendment, the claims presently under consideration are amended claims 1, 6-12 and 26-29.

Claim 9 was objected to because a word appeared to be missing between "oil" and "isocetyl". Accordingly, Applicant has inserted the word "is" therebetween to correct this ambiguity.

Claims 5, 12, 23, 28 and 29 were rejected under 35 U.S.C. 112, second paragraph, as indefinite. In this amendment, claim 5 has been cancelled and the indefinite phrase in claim 12 has been deleted. Claim 23 also has been cancelled. Claims 28 and 29 have been amended to conform to claim 1. Accordingly, reconsideration of the rejection under '112 is respectfully requested.

Claims 1, 6-9, 12, 23 and 26-29 were rejected under 35 U.S.C. 102(b) on Mooney. The Examiner has alleged that Mooney teaches an interpolymeric composition comprising a non-volatile oil medium and an oil soluble flow control polymer physically entrapped in a network of a crosslinked polymer selected from polymers of a water-soluble monomer such as acrylic acid, further comprising active components for skin care and/or therapeutic products.

Claims 2, 5, 10, 11 and 22 also were further rejected under 35 U.S.C. 103 on Mooney. The Examiner has alleged that the species of genus is prima facie obvious, and that the burden is upon applicants to establish that the species or subspecies of crosslinked acrylic polymer network and oil provides some unexpected results over the applied reference.

Applicant respectfully traverses the Examiner's rejection of the claims on Mooney under 35 U.S.C. 102 or 103. Applicant can find no disclosure, teaching or suggestion in the reference which would anticipate the present invention, or make it obvious to one skilled in the art.

The Mooney reference is seen to be directed to a structured adhesive bandage which includes an occlusive composition. The disclosed occlusive composition in Mooney contained a mixture of an oil or wax solvent base, a network polymer to increase the viscosity of the solvent, and a flow control polymer to assist in controlling the flow characteristics of the wound dressing. The network polymer were commercially available block copolymers of polystyrene and synthetic rubber such as isoprene, or, alternatively crosslinked polyacrylic acid (e.g. Carbopol[®]), or modified guar gum. The flow control polymer was a polyolefin such as polyethylene, or a stearate or palmitate ester. The occlusive composition was made by blending the several polymer constituents and oil in a batch mixer and coating the mixture onto a substrate present in the adhesive bandage.

Clearly, the Mooney reference did not disclose, or contemplate, as in this invention, polymerization of monomers to produce a crosslinked network polymer which would entrap a distinctly different polymerized monomer within its web. In contrast, the Mooney flow control polymers were merely admixed with the network polymer without being physically entrapped therein upon polymerization, as in this invention.

In order to narrow the issues herein, Applicant has amended the claims to define the network polymer in the invention as a water insoluble, crosslinked polymer of vinyl pyrrolidone and acrylic acid, optionally including an alkyl acrylate, and the entrapped polymer as a C₁-C₃₀ alkyl acrylate, or mixture of such acrylates. These species assure that the second polymer will become entrapped upon polymerization within the network polymer.

The result is carrier concentrate which is a stable, dense interpenetrated crosslinked polymer network (ICPN). In contrast, the disclosed Mooney polymers, alone or in combination do not provide an ICPN as defined in this invention.

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The ICPN formed herein by the polymeric species of amended claim 1 provides unexpected results because the concentrate thereof when combined with water, forms a gel or emulsion which is stable and water- resistant composition. Moreover, the pores of the ICPN possess a unique ability to also accept a high load of active material, e.g. a sunblock, in a final product formulation.

In summary, the present physical incorporation of two or more structurally dissimilar polymers in an intricate web-like structure produces modifications of properties which impart extended stability, increased density and ability to accept other active chemical moieties in the structure of the copolymeric product while shielding them from easy rinse-off removal. In this invention, the secondary polymer is physically entrapped in the network of the primary crosslinked polymer to produce a highly stable, hydrogen bonded structure.

In view of the foregoing the claims as amended are believed to define patentable invention over the cited art. Reconsideration and early allowance is respectfully solicited.

In the event any issue still remains after this amendment, the Examiner is urged to call Applicant's Attorney, Mr. William Davis (973-628-3529) or Dr. Walter Katz (561-744-8476) to discuss the matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William J. Davis". The signature is fluid and cursive, with a horizontal line extending from the end.

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For Dr. Walter Katz
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